IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

WP(C).No. 24175 of 2007(C)

PETITIONER:

AJITHA GHOSH V.K., AGED 40,
S/O. KKURUMBA THANKAMMA, VALIYAPARAMBIL,
MANNAM P.O., NORTH PARUR, ERNAKULAM DISTRICT.

BY ADV. SRI.K.V.KUMARAN

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
SC/ST DEVELOPMENT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2. THE MANAGING DIRECTOR,
THE KERALA STATE DEVELOPMENT CORPORATION FOR
SCHEDULED CASTES/SCHEDULED TRIBES LTD.,
P.O. THRISSUR.

BY SPL. GOVT. PLEADER SRI. C. T.RAVIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 24175/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER NO. B4/3349/97 EKM DT. 25/5/00.

EXT.P2. COPY OF THE DEED NO. 2534/2000 OF SUB REGISTRAR DESAM.

EXT.P3. COPY OF THE RECEIPT NO. CRA. 0240 DT. 26/3/07.

EXT.P4. COPY OF THE AGREEMENT DT. 19/5/07.

EXT.P5. COPY OF THE REPRESENTATION DT.1/8/07 BY THE PETITIONER.

RESPONDENT'S EXHIBITS **NIL.**

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ANTONY DOMINIC, J.

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W.P.(C) No. 24175 OF 2007 C
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Dated this the 23rd October, 2007

J U D G M E N T

Ext. P1 is the order passed by the 2nd respondent granting a loan of Rs.1,28,000/- to the petitioner. It is stated in Ext. P1 that the said loan is for the purpose of purchasing a plot of land and that the amount shall be repayable in 144 monthly instalments or 24 half yearly instalments together with 6% interest. Clause 4 of Ext. P1 provides that even if the loan is closed prior to the 12 years period mentioned therein, the property purchased utilising the loan thus granted cannot be transferred before 12 years. Accepting all the conditions of Ext. P1, petitioner availed of the loan.

2. Ext. P2 is a deed of mortgage which has been executed by the petitioner following Ext. P1. It also provides that the petitioner has accepted the condition that the documents will be released only after 12 years even if the loan has been closed by him before that period. It is now submitted that the petitioner has

closed the loan by paying the entire amount due and Ext. P3 dated 26-3-2007 is the receipt that has been issued by the 2nd respondent. Ext. P3 also shows that the account of the petitioner has been closed.

3. Subsequently, the petitioner filed Ext. P5 representation to the 2nd respondent seeking permission to dispose of the property although the period of 12 years mentioned in Exts. P1 and P2 had not expired. When orders were not passed on Ext. P1 he filed this writ petition to declare that condition No. 4 of Ext. P1 that the petitioner will not be permitted to sell the land before the expiry of 12 years even if he repays the loan, is illegal and void.

4. The learned Govt. Pleader and the Standing Counsel for the 2nd respondent submit that such a condition as per clause 4 of Ext. P1 was incorporated for the reason that a portion of the loan that was granted to the petitioner and similar beneficiaries is by way of subsidy. It is also pointed out that such a clause is necessary to ensure that landless and uneducated people who are the beneficiaries of the scheme retain properties for at least a specified number of years. Counsel points out that it is in

public interest that such clause was necessary to be incorporated.

5. Having gone through the writ petition and also hearing the parties on either side I am not inclined to hold that clause 4 of Ext. P1 suffers from any illegality. If as a matter of fact the Government is extending subsidy for enabling people like the petitioner to acquire a plot of land of their own, it is certainly in public interest that at least a minimum period is specified during which they will not be permitted to transfer the land. The fact that he has closed the loan does not entitle him to seek waiver of the condition in as much as it was subject to clause 4 that he availed of the financial assistance. Petitioner submits that he is being penalised in the matter. I do not agree with this submission either. In my view, clause 4 of Ext. P1 is valid and is not liable to be interfered with.

Writ petition fails and is dismissed.

ANTONY DOMINIC
JUDGE

jan/-